IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W.P. NO. 2830 /2002

PETITIONER : Trigunanand Pandey
aged about 58 years,
S/O Late Shri Kamal Pandey
Foreman Incharge, Gevra
Town Administration Department,
Gevra Area
South Eastern Coalfields
Limited, Bilaspur (C.G.)

P.R. No. 2465/02
Presented by Shri Nitendra Pal
dated 19/12/02

VERSUS

RESPONDENTS 1. South Eastern Coalfields
Limited, Bilaspur
through Chairman-cum-Managing
Director, Bilaspur (C.G.)

2. Director (Personnel)
South Eastern Coalfields Ltd.
Bilaspur (C.G.)

3. Chief General Manager
(Man Power),
South Eastern Coalfields
Limited, Bilaspur (C.G.)

4. Chief General Manager,
Gevra Area,
South Eastern Coalfields
Limited,
District Korba (C.G.)

5. Deputy Chief Personnel
Manager,
South Eastern Coalfields Ltd.
Gevra Area,
District Korba (C.G.).

PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT OF CERTIORARI AND MANDAMUS AND FOR OTHER WRITS AND DIRECTIONS :-

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

A.F.R

आदेश पत्रक

मामला क्रमांक W.P.No.2838/04 सन् 200

112

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

2-1-2004

Shri Sandeep Dubey, Advocate for the petitioner.

Shri Dhirendra Mishra, Advocate for the respondents.

With consent heard finally.

2. The petitioner has filed this petition for setting aside the order Annexure P-11 dated 2/3-12-2002 whereby his application for voluntary retirenemt has been accepted. The petitioner's contention is that his Voluntary retirement has been illegally accepted even without any formal/proper application made by him.

3. The respondents have filed return. The respondents in the return have made categorical statement that the petitioner was retired from the service on his own request. They have filed Annexures R-1 showing that the petitioner himself applied for voluntary retirement ~~in the prescribed format~~. Annexure R-1 is relevant and quoted below:-

"To,

The Chief General Manager,
South Eastern Coal Fields Limited Gevra Area,
Through :- Proper channel.
Subject :- Application for Voluntary Retirement.

Respected Sir,

With due respect I wish to inform you that I am working in Colony Power Supply & maintenance (E & M)

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XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P.No. 2898/02

मामला क्रमांक ..... **सन्** 200

(113)

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

department of Urja Nagar, Gevra Area. I am not in a condition to perform my job any more because of my poor health.

Therefore I request to your honour that kindly allow me to retire under Voluntary Retirement Scheme of the company.

Thanking you, in anticipation of your early positive response.

Yours sincerely,

T.N. PANDEY
FOREMAN IN CHIEF
E & M/COLONY POWER SUPPLY
URJA NAGAR, GEVRA AREA"

4. Aftcr filing thc abovc application, thc pctitioncr again applied for Voluntary retirement by an application which is at page 7 of the return. The application is reproduced below:-

"APPLICATION FOR VOLUNTARY RETIREMENT

To,

CHIEF GENERAL MANAGER

SECL GEVRA AREA

Sir,

I, T.N. PANDEY Son/wife of Shri K.Pandey hereby apply for voluntary retirement, I have understood the conditions laid down in the scheme which are acceptable to me.

Yours faithfully,
Signature/Left Thumb Impression

Name T.N. PANDEY

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XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. No. 2838/02 सन् 200

(414)

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Designation F.M. I/C
Category/Grade A-1 (SL4)
Unit E & M
Scale 6000-200-8400
CMPF NO. A/337036
Identity Card No.2145384"

5. It is submitted that the application was processed on 5-8-2002 and, the formalities were completed and accounts etc. prepared. It is on 3-12-2002 the petitioner was informed about his retirement as per Annexure P-11 and all this has been done at the request and the applications made by the petitioner himself. Shri Mishra submits that the respondents are ready to release the amount due to be paid.

6. Once the petitioner makes not only one but two applications mentioned hereinabove and the same have been processed and accepted and the petitioner made no grievance till it was accepted, the acceptance cannot be said to be illegal. The contention that the Voluntary retirement has been accepted even without any formal/proper application made by him does not appear to be correct. He had made applications and they have been accepted. Here section 115 of the Evidence Act is also relevant and quoted below:-

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P.No. 2838/02

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	-4-	

"115.**Estoppel.**-When one person has, by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing."

7. Here in the instant case, while filing the petition, the petitioner has not disclosed the fact that he has filed applications for voluntary retirement and he did not file the applications along with the petition and suppressed the true and correct facts. He ought to have disclosed the true and correct facts and it was his bounden duty specially when the petitioner seeks a writ invoking extraordinary jurisdiction under Articles 226/227 of the Constitution of India. One who desires to invoke extraordinary jurisdiction, is required to disclose the factual aspect.

8. In view of the submissions made by the parties and in view of the Annexures R-1, it cannot be said that the Department acted illegally and the petitioner has been retired illegally or contrary to law.

9. Having considered the facts and circumstances of the case and material on record, in the opinion of this Court, no

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XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P. No. 2838/02

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -5-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	case for any interference in the impugned order in exercise of extraordinary jurisdiction under Article 226/227 is made out. The petition fails and is dismisse Sd/- Fakhruddin Judge	